

REPORT TO THE HONORABLE

MAYOR AND CITY COUNCIL

THE LIGHT POLLUTION LAW

At its June 19, 1985 meeting, the Public Services and Safety Committee of the Council of The City of San Diego voted 4 to 0 to recommend to the Council that it adopt the ordinance entitled, "The Light Pollution Law." The ordinance, if adopted, would regulate the type and hours of operation of outdoor lighting fixtures on private property. The ordinance would require most lights used outdoors, whether new or existing, to be turned off from 11:00 p.m. to sunrise. Exemptions are provided for security lighting and commercial and recreational activities which continue past 11:00 p.m. Moreover, the ordinance would require lighted signs to be shut off after 11:00 p.m. or upon the close of business. Outdoor lighting fixtures installed after the effective date of the ordinance would have to comply with the following requirements:

1. Parking lot walkway, roadway, equipment yard and security lighting will be required to utilize shielded, low-pressure sodium fixtures;
2. Outdoor sales, assembly or repair areas, where color rendition is necessary, will be required to utilize shielded fixtures and be equipped with automatic timing devices; and
3. Lighting fixtures used for signs, decorative purposes, or recreational activities, would be required to be shielded when feasible and focused to minimize light pollution and be equipped with automatic timing devices.

The original ordinance which was presented to the Public Services and Safety Committee had a clause which exempted signs from its provisions. This exemption was inserted in the ordinance because existing State law requires fair and just compensation when any ordinance of any city or county limits the customary use of the sign. Section 5491 of the Business and Professions Code imposes this compensation requirement for on premises signs and Section 5412 of the Business and Professions Code imposes this compensation requirement for outdoor advertising displays. This information was provided to the

Public Services and Safety Committee at the time it considered the ordinance.

However, notwithstanding the advise of this office, the Public Services and Safety Committee determined that signs should not be exempted from the ordinance. The effect of this action will require on premises signs to be shut off at 11:00 p.m. or at the conclusion of business operations and to require off premises signs to be shut off at 11:00 p.m. or midnight depending upon the date of installation of the sign.

It is the opinion of this office that if the ordinance is enacted with the 11:00 p.m. or midnight shutoff requirements as recommended by the Public Services and Safety Committee, that your action will subject the City to claims for fair and just compensation associated with the loss of customary uses of on or off premises signs pursuant to Sections 5491 and 5412 of the Business and Professions Code.

It is, therefore, our recommendation that the ordinance be revised to provide an exemption for signs as originally presented to the Public Services and Safety Committee.

Alternatively, we would recommend that an amendment to State law be pursued which would allow cities to enact ordinances with uncompensated deactivation provisions for existing signs, and until such an amendment is enacted, that such existing signs be

provided an exemption in the proposed ordinance.

Respectfully submitted,

JOHN W. WITT

City Attorney

TFS:ta:241(x043.1)

RC-85-16